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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,141	11/13/2003	Giuliano Cacucci	2835-73803	9555

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EXAMINER

PAPE, JOSEPH

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 11/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/713,141	CACUCCI ET AL.	
	Examiner	Art Unit	
	Joseph D. Pape	3612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 18,20,23 and 25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17,19,21,22,24 and 26-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/03 & 5/04</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Figure 9 in the reply filed on 10/1/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 18, 20, 23, and 25, which set forth an inflatable "tube" that is not part of the elected species, are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/1/04.

Specification

3. The disclosure is objected to because of the following informalities:
On page 13, lines 7 and 8, it is thought that "210" should be changed to -220--.
On page 13, the description on lines 11-15 that the tube 120 is mounted to the top rail appears to be inaccurate in that the shield 121 is mounted to the top rail in the embodiment of Figure 3.

On page 14, line 13, it is thought that --impeded--should be changed to --impede--for clarity.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Tucker. Tucker discloses the claimed invention including a “passive” barrier net 18 manually movable between a first stowed position and a first deployed position covering a portion of the exit defined by the window opening. See Figure 4. The barrier is capable of being continuously positioned in the first deployed position and can be seen through during operation of the vehicle. The barrier is locked in the deployed position by fastener 28.

6. Claims 1-7, 9, 12-15 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Sutherland et al.

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Sutherland et al. disclose the claimed invention including a "passive" barrier net 12 movable between a first stowed position and a first deployed position covering a portion of the exit defined by the window opening. Since applicant has defined the "passive" barrier to include automatic deployment means therefor upon the occurrence of a defined event (specification page 10, lines 10-24), Sutherland et al. is considered to show a "passive" barrier that is also automatically deployed upon a defined event. The barrier is capable of being continuously positioned in the first deployed position during operation of the vehicle in that in response to a defined event while the vehicle is being operated the net is deployable. The barrier can be seen through during operation of the vehicle. The barrier includes locking means comprising teeth 58 on track 48 that "lock" the barrier in a deployed position. The barrier includes a mechanical device 90, 92, 54, 56 to move the barrier between the first stowed and first deployed positions. The mechanical device includes retractor 92, motor 56 and a controller 104 of a control system. Upon activation of the barrier by the control system the locking means function to lock the barrier in a deployed position.

7. Claims 1-6, 9-15 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Gronlund et al.

Gronlund discloses the claimed invention including a "passive" barrier 28 selectively movable between a first stowed position and a first deployed position covering a portion of the exit defined by the window opening. The barrier is

capable of being continuously positioned in the first deployed position and can be seen through during operation of the vehicle. The barrier includes a mechanical moving device 84, 76, 70, 66. The mechanical device includes motor 84.

Re claims 14-15, the barrier also includes a control system including switch 86.

Upon switching the motor off with switch 86 of the control system, the barrier is "locked" in either a stowed or a deployed position by virtue of lifting rings 66, 68 being threadably held in place relative to screws 70, 72.

8. Claims 21, 22, 24, 26-28 and 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Asano et al.

Asano et al. disclose the claimed invention including a safety barrier 210 with a horizontal bladder 225 and vertical bladders 224. The barrier has a stowed position and a deployed position covering a portion of the exit defined by the window opening and a control system, including sensor 12, for moving the barrier from the stowed position to the deployed position by inflation of the bladders by inflator 14. Reference Figure 16.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

~~10. This application currently names joint inventors. In considering patentability of~~
the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11. Claims 16, 17, 19 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gronlund et al. in view of Asano et al.

Gronlund et al. disclose the claimed invention except for a reactive safety barrier. Asano et al. disclose in Figure 16 a reactive safety barrier or curtain 210 with a horizontal bladder 225 and vertical bladders 224. The barrier has a stowed and a deployed position and a control system, including sensor 12, for moving the barrier from the stowed position to the deployed position by inflation of the bladders by inflator 14. The sensor detects a side collision which may lead to a roll over of the vehicle. Thus sensor 12 is considered to be a "roll sensor" as broadly as recited.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the vehicle of Gronlund et al. with an inflatable

side curtain barrier as taught by Asano et al. in order to protect the occupant's head upon a vehicle collision.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references show many features similar to those claimed and merely disclosed of the current invention.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph D. Pape whose telephone number is (703) 308-3426. The examiner can normally be reached on Tues.-Fri. (6:00-4:30).

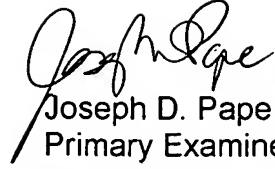
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (703) 308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Joseph D. Pape
Primary Examiner
Art Unit 3612

11/18/04

Jdp

November 18, 2004